

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

SHAWN DRUMGOLD,

Plaintiff

v.

TIMOTHY CALLAHAN,  
FRANCIS M. ROACHE,  
PAUL MURPHY, RICHARD WALSH,  
and THE CITY OF BOSTON,

Defendant

C.A. NO.: 04-11193NG

**DEFENDANTS' MOTION IN LIMINE TO EXCLUDE THE MOTION  
OF THE DISTRICT ATTORNEY FOR A NEW TRIAL and  
THE SUPERIOR COURT'S ORDER GRANTING A NEW TRIAL**

Defendants Walsh, Callahan, Francis M. Roache and the City of Boston  
(collectively "the Defendants") hereby move *in limine* to exclude from the trial of this  
action any reference to the District Attorney's Post-Hearing Motion to Vacate Conviction  
and Grant New Trial, and the opinion of the Superior Court in granting the District  
Attorneys' Motion.

As grounds therefore, the Defendants state that the opinions are hearsay, to which  
no exception applies. More importantly, the opinions speak to the ultimate issues in this  
case: specifically, the credibility of witnesses and the fairness of the criminal trial held in  
1989. Those issues are exclusively the province of the jury in this case to determine.

Further support for this Motion is provided in the accompanying Memorandum of  
Law.

**Defendant,**  
**RICHARD WALSH,**

By his attorney,

/s/ Hugh R. Curran

Hugh R. Curran (BBO# 552623)  
Bonner, Kiernan, Trebach & Crociata, LLP  
200 Portland Street  
Suite 400  
Boston, MA 02114  
Phone: (617) 426-3900  
Fax: (617) 426-0380

**Defendant,**  
**TIMOTHY CALLAHAN,**

By his attorney,

/s/ Mary Jo Harris

Mary Jo Harris (BBO# 561484)  
Morgan, Brown & Joy LLP  
200 State Street  
11<sup>th</sup> Floor  
Boston, MA 02109  
Phone: (617) 523-6666  
Fax: (617) 367-3125

**Defendants,**  
**CITY OF BOSTON AND**  
**FRANCIS M. ROACHE,**

By their attorney,

/s/ John P. Roache

John P. Roache, Esq. (BBO #421680)  
Patrick J. Donnelly, Esq. (BBO #651113)  
Roache & Associates P.C.  
66 Long Wharf  
Boston, MA 02110  
Phone: (617) 367-0330  
Fax: (617) 367-0172

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the 28th day of January, 2008, I electronically filed with within document with the Clerk of the United States District Court for the District of Massachusetts, using the CM/ECF System. The following participants have received notice electronically:

**For Plaintiff Shawn Drumgold,**  
Michael W. Reilly, Esq.  
Tommasino & Tommasino  
Two Center Plaza  
Boston, MA 02108-1904

**For Plaintiff Shawn Drumgold,**  
Rosemary Curran Scapicchio, Esq.  
Four Longfellow Place  
Suite 3703  
Boston, MA 02114

**For Defendant, City of Boston,**  
Susan Weise, Esq.  
Chief of Litigation  
Assistant Corporate Counsel  
City of Boston/Law Department  
City Hall  
Room 615  
Boston, MA 02201

**For Defendants City of Boston  
and Francis M. Roache,**  
John P. Roache, Esq.  
Patrick J. Donnelly, Esq.  
Roache & Associates PC  
66 Long Wharf  
Boston, MA 02110

**For Defendant Richard Walsh,**  
Hugh R. Curran, Esq.  
Bonner, Kiernan, Trebach & Crociata, LLP  
200 Portland Street  
Suite 400  
Boston, MA 02114

/s/ Mary Jo Harris